

January 22, 2015

The Honorable Mathy Stanislaus  
Assistant Administrator  
Office of Solid Waste and Emergency Response  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

RE: Request for Extended Public Comment Period for Docket Number EPA-HQ-OPA-2006-0090

Dear Assistant Administrator Stanislaus,

Our undersigned organizations are very pleased to learn that the public comment period for the proposed rule on revisions in Subpart J of the National Contingency Plan (Docket Number EPA-HQ-OPA-2006-0090) has officially opened. However, in order to provide stakeholders with adequate time to both review the 247-page proposed rule and participate in the public comment period, we would like to request that the period for public comments be extended for an additional 30 days, from 90 days to 120 days.

Stakeholders have waited 14 years for the proposed rule to be released. We appreciate your consideration of this request in order to ensure that those impacted by changes to dispersant regulations have an adequate opportunity to participate at this significant stage of the rulemaking process.

Sincerely,

The Citizens Coalition to Ban Toxic Dispersants  
Government Accountability Project

CC: Craig Matthiessen, Division Director, Environmental Protection Agency

Message

---

**From:** Matthiessen, Craig [Matthiessen.Craig@epa.gov]  
**Sent:** 1/15/2015 7:18:18 PM  
**To:** DeHaven, Leigh [DeHaven.Leigh@epa.gov]; Wilson, Gregory [Wilson.Gregory@epa.gov]; Principe, Vanessa [Principe.Vanessa@epa.gov]; Mayer, Eileen [Mayer.Eileen@epa.gov]; Bove, James [Bove.James@epa.gov]  
**CC:** Jennings, Kim [Jennings.Kim@epa.gov]; Tulis, Dana [Tulis.Dana@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]  
**Subject:** FW: EPA Highlights includes Subpart J

FYI

---

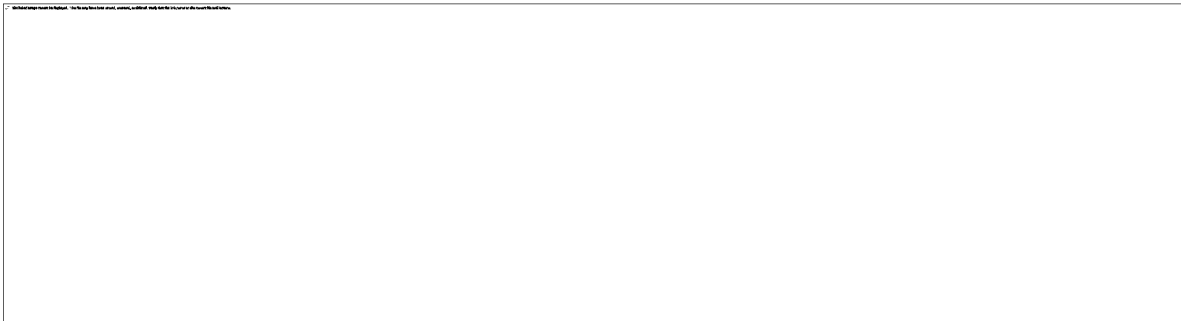
**From:** Cohen, Nancy  
**Sent:** Thursday, January 15, 2015 2:11 PM  
**To:** Stanislaus, Mathy; Breen, Barry; Cheatham, Reggie; Tulis, Dana; Matthiessen, Craig  
**Cc:** Bergman, Shawna; Brooks, Becky; Hilosky, Nick; Karrie, Joan; Deitz, Randy; Bassler, Rachel  
**Subject:** EPA Highlights includes Subpart J

FYI . . .

Thanks, nancy

---

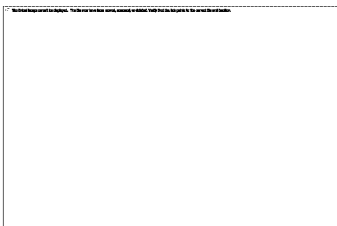
**From:** U.S. Environmental Protection Agency [<mailto:usaepa@service.govdelivery.com>]  
**Sent:** Thursday, January 15, 2015 1:53 PM  
**To:** Cohen, Nancy  
**Subject:** EPA Highlights



- [EPA Announces Strategy for Reducing Methane and Smog from Oil and Natural Gas Industry](#)
- [Annual Toxics Release Inventory National Analysis Released](#)
- [Six Ways to Go Green on MLK Day](#)
- [Strengthening the Nation's Preparedness Level and Response to Oil Spills](#)
- [Radon Risk? You Don't Know Until You Test](#)

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## **EPA Announces Strategy for Reducing Methane and Smog from Oil and Natural Gas Industry**



The Obama Administration is committed to taking responsible steps to address climate change and helping to ensure a cleaner, more stable environment for future generations. As part of that effort, the Administration announced a **new goal to cut methane emissions from the oil and gas sector by 40 – 45 percent** from 2012 levels by 2025, and a set of actions to put the U.S. on a path to achieve this ambitious goal.

**EPA has outlined a series of steps to address methane and smog-forming volatile organic compound (VOC) emissions** from the oil and gas industry. These steps are designed to ensure continued, safe and responsible growth in U.S. oil and natural gas production. The **commonsense strategy will reduce methane pollution** from new sources in this rapidly growing industry, reduce smog-forming pollutants from existing sources in areas that do not meet federal ozone health standards, and build on work that states and industry are doing to address emissions from existing sources elsewhere. **Learn the facts about the strategy here. <http://go.usa.gov/zPXj>**

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## Annual Toxics Release Inventory National Analysis Released

EPA recently released the annual Toxics Release Inventory (TRI) report, showing that in 2013 **most of the toxic chemical waste managed at industrial facilities in the U.S. was not released into the environment**. This finding is similar to previous years. The report shows that approximately 84 percent of the 26 billion pounds of toxic chemical waste were managed through the use of preferred practices such as treatment for destruction and recycling.



The web-based report features charts and graphs with national-level analyses of toxic chemical waste management data, while a new interactive mapping feature gives information for state, county, city, zip code, and aquatic ecosystem. **Access the 2013 TRI National Analysis report**, including long-term trends and localized analyses **here. <http://go.usa.gov/zveJ>**

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## Six Ways to Go Green on MLK Day



**Protect the environment this year on Martin Luther King, Jr. Day of Service**. Volunteer to plant trees, take action on asthma, or organize an electronics recycling event in your neighborhood.

**Find more ideas** from EPA on how to make a positive impact in your community **here. <http://bit.ly/1u9ESEp>**

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## Strengthening the Nation's Preparedness Level and Response to Oil Spills

EPA is proposing to amend requirements under the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) to improve the nation's ability to plan for and respond to oil spills. **This proposal addresses issues raised by the public, responders, government, and industry officials** during the 2010 Deepwater Horizon Oil Spill.



EPA will accept public comments on the proposal for 90 days following publication in the Federal Register. Learn how you soon will be able to comment [here](#). <http://go.usa.gov/zQJG>

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## Radon Risk? You Don't Know Until You Test



January is National Radon Action Month. Radon is a naturally occurring, colorless, odorless radioactive gas that can be found in homes across the U.S. It is the **leading cause of lung cancer among non-smokers** and is estimated to cause more than 20,000 deaths each year. Read a blog post from Henry Slack, EPA's Indoor Air Coordinator for the Southeast, on how testing for radon is easy, inexpensive and can protect your family [here](#). <http://go.usa.gov/zQuV>

Learn how to get a radon test kit [here](#). <http://go.usa.gov/zQJk>

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We encourage you to share the EPA Highlights eNewsletter with your colleagues. To subscribe:

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Office of Public Engagement and Environmental Education  
Office of the Administrator / U.S. Environmental Protection Agency  
Tel 202-564-1785 / [PublicEngagement@epa.gov](mailto:PublicEngagement@epa.gov)



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This service is provided to you at no charge by the [U.S. Environmental Protection Agency](#).

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This email was sent to [cohen.nancy@epa.gov](mailto:cohen.nancy@epa.gov) using GovDelivery, on behalf of: U.S. Environmental Protection Agency · 1200 Pennsylvania Avenue NW · Washington DC 20460 · 202-564-4355



Message

---

**From:** Tulis, Dana [Tulis.Dana@epa.gov]  
**Sent:** 2/23/2015 7:25:25 PM  
**To:** DeHaven, Leigh [DeHaven.Leigh@epa.gov]  
**CC:** Matthiessen, Craig [Matthiessen.Craig@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]; Vanroden, Victoria [Vanroden.Victoria@epa.gov]; Perry, Portia [Perry.Portia@epa.gov]; Wilson, Gregory [Wilson.Gregory@epa.gov]; Principe, Vanessa [Principe.Vanessa@epa.gov]; Jennings, Kim [Jennings.Kim@epa.gov]  
**Subject:** Re: Update on Oil Storage for Subpart J:

Good, thank you!

Dana S. Tulis  
Deputy Office Director  
Office of Emergency Management  
US EPA  
202-564-7938

On Feb 23, 2015, at 2:16 PM, "DeHaven, Leigh" <[DeHaven.Leigh@epa.gov](mailto:DeHaven.Leigh@epa.gov)> wrote:

FYI: The request for bids for Refrigerated Oil Storage, Repackaging and Distribution for Subpart J Test Oils has been posted on FED BIS OPS until March 9 (2 weeks).

***Leigh E. DeHaven***

U.S. Environmental Protection Agency  
Office of Emergency Management  
Office of Solid Waste and Emergency Response  
1200 Pennsylvania Ave., NW  
6450 CC WJC North (Mail code 5104A)  
Washington, DC 20460  
Tel.: (202) 564-1974

January 22, 2015

The Honorable Mathy Stanislaus  
Assistant Administrator  
Office of Solid Waste and Emergency Response  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

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Sincerely,

The Citizens Coalition to Ban Toxic Dispersants  
Government Accountability Project

CC: Craig Matthiessen, Division Director, Environmental Protection Agency

Message

---

**From:** James, Kennetta [James.Kennetta@epa.gov]  
**Sent:** 2/19/2015 6:47:39 PM  
**To:** OSWER OEM Managers [OSWER\_OEM\_Managers@epa.gov]  
**CC:** Karrie, Joan [Karrie.Joan@epa.gov]; Pollard, Marcia [Pollard.Marcia@epa.gov]  
**Subject:** CMS Courtesy Copy - OSWER-15-000-5415  
**Attachments:** OSWER-15-000-5415 - Notification of Tribal Consultation NCP.pdf

Courtesy Copy - No Action Necessary - See attachment -Thanks!

Kind Regards,

Kennetta James  
Executive Secretary  
Office of Emergency Management  
US EPA  
202-564-1942 (work)  
202-564-8600 (main office)

-----Original Message-----

**From:** cmsadmin@epa.gov [mailto:cmsadmin@epa.gov]  
**Sent:** Wednesday, February 18, 2015 12:44 PM  
**To:** Beasley, Lynn; Pollard, Marcia; Tulis, Dana; James, Kennetta; Karrie, Joan  
**Subject:** CMS Courtesy Copy - Wanda McLendon - OSWER-15-000-5415

You are being alerted to control OSWER-15-000-5415. No action is currently required on your part, but you have been granted the ability to view the control by Wanda McLendon.

Summary Information -  
Control Number: OSWER-15-000-5415  
Control Subject: PROPOSED MEMO-Notification of Tribal Consultation and Coordination on the National Contingency Plan Subpart J Product Schedule - Proposed Rule  
From: Stanislaus, Mathy

Note: This Email was automatically generated. Please do not attempt to respond to it. You can access this control at <https://cms.epa.gov/cms>. Questions or comments concerning CMS should be directed to CMS Support at 202-564-4985 or CMS Information@epa.gov.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

FEB 13 2015

OFFICE OF  
SOLID WASTE AND  
EMERGENCY RESPONSE

Re: Notification of Tribal Consultation and Coordination on the National Contingency Plan  
Subpart J Product Schedule – Proposed Rule

Dear Honorable Leader,

The U.S. Environmental Protection Agency (EPA) is initiating consultation and coordination with federally-recognized Indian Tribes on proposed changes to Subpart J of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). Specifically, EPA is proposing to amend Subpart J of the NCP requirements associated with the listing and use of dispersants and other chemical and biological agents to respond to oil spills in waters of the U.S. The proposed rule addresses concerns raised by the public, regulated community and response officials during the 2010 Deep Water Horizon Oil Spill. It also incorporates scientific advances and lessons learned from the application of spill mitigating agents in response to oil discharges.

The consultation and coordination process is scheduled to begin the week of February 23, 2015. EPA invites you and your designated consultation representative(s) to participate in this process by joining in on the government-to-government consultation calls (see below for times and dates).

Here is the schedule for the consultation calls in four designated areas:

Date	Area	Call In Information
Tuesday, March 17, 2015 11:00 am – 12:30 pm EDT	<b>Eastern US:</b> ME, NH, VT, NY, MA, CT, RI, NJ, PA, DE, MD, WV, VA, NC, SC, GA	Call: 866-299-3188 Passcode: 2025641970#
Thursday, March 19, 2015 2:00 pm – 3:30 pm EDT	<b>Central/Midwestern US:</b> MN, WI, MI, IL, IN, OH, KY, TN, MT, WY, ND, SD, IA, CO, KS, MO, NE, OK, AR.	Call: 866-299-3188 Passcode: 2025641970#
Wednesday, March 11, 2015 11:00 am – 12:30 pm EDT	<b>Gulf Region:</b> TX, LA, MS, AL, FL	Call: 866-299-3188 Passcode: 2025641970#
Thursday, March 12, 2015 1:00 pm – 2:30 pm EDT	<b>Western US:</b> ID, WA, OR, CA, NV, UT, AZ, NM, AK, HI	Call: 866-299-3188 Passcode: 2025641970#

If possible, please participate in the call for your designated area. In case of schedule conflict, you are welcome to participate in one of the other calls. Tribes can submit consultation comments to [SubpartJ.Tribal.Consultations@epa.gov](mailto:SubpartJ.Tribal.Consultations@epa.gov) through April 22<sup>nd</sup>.



In particular, we solicit your input on proposed amendments to the chemical agent listing and pre-authorization requirements contained in Subpart J of the NCP. During the consultation calls, we will provide an overview of the elements of the proposed rulemaking. We welcome your questions about these elements during the call and look forward to submission of your comments.

The NCP is the federal government's blueprint for responding to both oil spills and hazardous substance releases. Subpart J of the NCP lists chemical agents that may be used to remove or control oil discharges; as well as parameters governing the authorization of use and environmental monitoring of those chemical agents. Under the NCP, tribes may participate as members of Area Committees, on Regional Response Teams (RRT) and Tribal Emergency Response Committees (TERC).

Oil spills, and any chemical agents used in emergency response, can impact tribal resources such as land, water, or fishing and hunting areas. The proposed Subpart J amendments will address chemical agent toxicity, efficacy, testing methodologies, advanced monitoring techniques, and environmental and human health impacts. Revisions are also proposed for area planning requirements on the authorization of chemical agent use. EPA believes the proposed amendments provide better information for responders about the use of chemical agents, which will reduce the risk to human health and the environment. General information is provided in the attached Fact Sheet.

Information on this consultation is available on EPA's Tribal Portal (<http://tcots.epa.gov>).

For your information, tribes may also chose to submit formal comments to the rulemaking docket as detailed in the Federal Register notice (see <https://www.federalregister.gov/articles/2015/01/22/2015-00544/national-oil-and-hazardous-substances-pollution-contingency-plan>). The public comment period closes April 22, 2015.

If you have any questions about this consultation, please contact William Nichols at 202-564-1970 or by e-mail at [nichols.nick@epa.gov](mailto:nichols.nick@epa.gov).

Thank you for your engagement in this important effort.

Sincerely,



Mathy Stanislaus  
Assistant Administrator

Attachment

cc:	C. Matthiessen	R. Cheatham
	K. Jennings	D. Tulis
	V. van Roden	V. Principe
	W. Nichols	J. Sims

Message

---

**From:** Tulis, Dana [Tulis.Dana@epa.gov]  
**Sent:** 1/15/2015 10:20:27 PM  
**To:** Bassler, Rachel [Bassler.Rachel@epa.gov]; Cohen, Nancy [Cohen.Nancy@epa.gov]; Deitz, Randy [Deitz.Randy@epa.gov]  
**CC:** Matthiessen, Craig [Matthiessen.Craig@epa.gov]; Cheatham, Reggie [cheatham.reggie@epa.gov]  
**Subject:** FW: Pensacola News Journal

# Deliberative Process / Ex. 5

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---

**From:** Bassler, Rachel  
**Sent:** Wednesday, January 14, 2015 5:48 PM  
**To:** Karrie, Joan  
**Cc:** Tulis, Dana; Cheatham, Reggie; Cohen, Nancy; Deitz, Randy  
**Subject:** FW: Pensacola News Journal

Hi,

Please see the questions below from the reporter. If the deadline of COB tomorrow is not enough time, please let me know and I will request more time.

Thanks,  
Rachel

---

**From:** Deitz, Rachel  
**Sent:** Wednesday, January 14, 2015 5:07 PM  
**To:** Cohen, Nancy  
**Cc:** Bassler, Rachel; Deitz, Randy  
**Subject:** Pensacola News Journal

Outlet: Pensacola News Journal  
Reporter: Kimberly Blair  
DDL: 1/15

Request:

I want to know more about the "lessons learned" from the Deepwater Horizon oil spill and what triggered these proposed changes?

Some local scientists claimed EPA standards for testing toxicity of dispersants were not adequate. They advocated new standards. Was there pressure from the scientific/health community?

Also I'd like to know answers to the follow:

- New and revised product toxicity and efficacy test methodologies for dispersants, and other chemical and biological agents; I'd like an explanation on this and how it would impact the way dispersants used during the oil spill.
- New toxicity and efficacy criteria for listing agents on the Subpart J Product Schedule;
- Additional human health and safety information requirements from manufacturers; What is the impetus for this. Did EPA discover the dispersants used during the Deepwater Horizon oil spill have greater health impacts than expected or thought?
- Revised area planning requirements for chemical and biological agent use authorization; and Explain what this means.
- New dispersant monitoring requirements when used on certain oil discharges. How would this be done?
- Will the new testing procedures include toxicity of both the surfactant and surfactant oil mixtures?
- How will the new testing be different than previous research dating back to the 1980's?

Rachel Deitz  
Office of Media Relations  
Environmental Protection Agency

202-564-1807  
1200 Pennsylvania Avenue, N.W.  
Mail Code: 1701A  
Washington, DC 20460

**From:** Tulis, Dana [Tulis.Dana@epa.gov]  
**Sent:** 1/14/2015 11:08:39 PM  
**To:** Bassler, Rachel [Bassler.Rachel@epa.gov]; Karrie, Joan [Karrie.Joan@epa.gov]  
**CC:** Cheatham, Reggie [cheatham.reggie@epa.gov]; Cohen, Nancy [Cohen.Nancy@epa.gov]; Deitz, Randy [Deitz.Randy@epa.gov]; Matthiessen, Craig [Matthiessen.Craig@epa.gov]  
**Subject:** RE: Pensacola News Journal

## Deliberative Process / Ex. 5

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**To:** Karrie, Joan  
**Cc:** Tulis, Dana; Cheatham, Reggie; Cohen, Nancy; Deitz, Randy  
**Subject:** FW: Pensacola News Journal

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**Sent:** Wednesday, January 14, 2015 5:07 PM  
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**Cc:** Bassler, Rachel; Deitz, Randy  
**Subject:** Pensacola News Journal

Outlet: Pensacola News Journal  
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- Will the new testing procedures include toxicity of both the surfactant and surfactant oil mixtures?
- How will the new testing be different than previous research dating back to the 1980's?

Rachel Deitz  
Office of Media Relations  
Environmental Protection Agency

202-564-1807  
1200 Pennsylvania Avenue, N.W.  
Mail Code: 1701A  
Washington, DC 20460

EPA Spring 2018 – Add as Active, Long-Term, Completed (from Inactive in Fall 2017)

RIN	Title	Sequence Number
2050-AE34	Management of Cement Kiln Dust (CKD)	169
2050-AE87	Revisions to the National Oil and Hazardous Substances Pollution Contingency Plan; Subpart J Product Schedule Listing Requirements	40
2050-AG40	Emergency Planning and Community Right-to-Know Act: Amendments and Streamlining Rule	52
2060-AP80	Reconsideration of the Prevention of Significant Deterioration and Nonattainment New Source Review (NSR) Project Aggregation	88
2060-AS96	Removal of Title V Emergency Affirmative Defense Provisions From State Operating Permit Programs and Federal Operating Permit Program	28
2060-AT56	Review of the Standards of Performance for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Generating Units	87
2060-AQ07	Withdrawal of the Prior Determination or Presumption That Compliance With the CAIR or the Nox Sip Call Constitutes RACT Or RACM for the 1997 8-Hour Ozone and 1997 Fine Particle NAAQS	141
2070-AC21	Lead Fishing Sinkers; Manufacturing, Processing, and Distribution in Commerce	142
2070-AC37	Significant New Use Rule (SNUR); Refractory Ceramic Fibers (RCFs)	117
2070-AC46	Groundwater and Pesticide Management Plan Rule	118
2070-AD14	Pesticides; Registration Requirements for Antimicrobial Pesticide Products	143
2070-AD44	Test Rule; Multiple Substance Rule for the Testing of Developmental and Reproductive Toxicity	119
2070-AD55	Plant Incorporated Protectants (PIPs); Exemption for Those Derived Through Genetic Engineering From Sexually Compatible Plants	120
2070-AD56	Plant Incorporated Protectants (PIPs); Exemption for PIPs That Act by Primarily Affecting the Plant	144
2070-AJ07	Testing Agreement for Aryl Phosphates (ITC List 2)	145
2070-AJ08	Certain Polybrominated Diphenylethers; Significant New Use Rule (SNUR) and Test Rule	146
2070-AJ31	Significant New Use Rule for Chloranil	147
2070-AJ66	High Production Volume (HPV) Chemicals; Fourth Group of Chemicals	124
2070-AJ82	Residential Lead Dust Hazard Standards	148
2070-AJ91	Significant New Use Rule for Toluene Diisocyanates (TDI) and Related Compounds	149
2070-AJ93	Hydraulic Fracturing Chemicals and Mixtures	

**Commented [A1]:** Description missing in the full write-ups below. Please add.

**Commented [A2]:** Chad: This rule will be significant under EO 12866. The rule will likely reduce regulatory burden so my initial thought is that it will be deregulatory under EO 13771. Does EPA disagree?

**Commented [A3R2]:** EPA: edits below.

**Commented [A4]:** In EPA's timetable for this entry, the agency says that they withdrew the action in 2/2018. Is the agency now reviving this action? Wouldn't removing the affirmative defense for sources potential expose them to additional liability and compliance costs?

**Commented [A5R4]:** EPA: Not moving forward due to competing priorities.

**Commented [A6]:** Chad: Why is the agency planning to withdraw this action as opposed to putting it in long term? It would appear to be a burden reducing action as it would provide an affirmative defense to sources. Will EPA explain?

**Commented [A7R6]:** EPA: Not moving forward due to competing priorities.

**Commented [A8]:** Is this deregulatory in nature? Doesn't withdrawing this mean that sources may have install additional controls?

**Commented [A9R8]:** EPA: we do not believe actions that are withdrawn (e.g., not completed) are significant, regulatory, or deregulatory.

**Commented [A10]:** Chad: Why is the agency planning to withdraw this action as opposed to putting it in long term? It would appear to be a burden reducing action as it would provide an affirmative defense to sources. Will EPA explain?

**Commented [A11R10]:** EPA: This action was supposed to be withdrawn a year ago, and due to technical glitch was not. It is no longer needed to clarify the policy on reasonably available control technology and reasonably available control measures for oxides of nitrogen or sulfur dioxide emissions from electric generating unit sources participating in regional cap-and-trade programs, including the Clean Air Interstate Rule (CAIR) and the NOx SIP Call. The policy was clarified in two separate final rules issued in 2015 and 2016. See abstract.

**Commented [A12]:** How many states have PMPs? Does EPA have visibility into whether they cover water quality generally, or are mainly focused on groundwater?

**Commented [A13R12]:** EPA: this action is being withdrawn.

REVISIONS TO THE NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN:  
SUBPART J PRODUCT SCHEDULE LISTING REQUIREMENTS

Priority: Other Significant

EO 13771 Designation: Regulatory

Legal Authority: 33 U.S.C. 1321(b)(3) 33 U.S.C. 1321(c)(2) 33 U.S.C. 1321(d)(2) 33 U.S.C. 1321(i) 33 U.S.C.  
1321(c)(1) 33 U.S.C. 1321(b)(4) 33 U.S.C. 1361(a)

CFR Citation: 40 CFR 300.40 CFR 110

Legal Deadline: None

Abstract: The Clean Water Act requires the EPA to prepare a schedule identifying dispersants, other chemicals,  
and other spill mitigating devices and substances, if any, that may be used in carrying out the National  
Contingency Plan (NCP); and the waters and quantities in which they may be used. The EPA is considering  
revising Subpart J of the NCP to address the efficacy, toxicity, and environmental monitoring of dispersants, other  
chemical and biological agents, and other spill mitigating substances, as well as public, state, local, and federal  
officials concerns on their authorization and use. Specifically, the agency is considering revisions to the technical  
product requirements under Subpart J, including amendments to the effectiveness and toxicity testing protocols,  
and establishing new effectiveness and toxicity thresholds for listing certain products on the Schedule.  
Additionally, the agency is considering amendments to area planning requirements for agent use authorization  
and advanced monitoring techniques. The agency is also considering revisions to harmonize 40 CFR part 110.4  
with the definitions for chemical and biological agents proposed for Subpart J. These changes, if finalized, will  
help ensure that chemical and biological agents have met rigorous efficacy and toxicity requirements, that product  
manufacturers provide important use and safety information, and that the planning and response community is  
equipped with the proper information to authorize and use the products in a judicious and effective manner. The  
EPA is working to locate two oils sufficiently distinct to use as reference oils for testing the proposed rule  
approaches in order to develop the final rule.

Timetable:

<u>Action</u>	<u>Date</u>	<u>FR Cite</u>



<u>NPRM</u>	<u>01/22/15</u>	<u>80 FR 3379</u>
<u>Final Rule</u>	<u>01/00/21</u>	

Regulatory Flexibility Analysis Required: No

Small Entities Affected: No

Government Levels Affected: Federal, Local, State, Tribal

Additional Information: Docket # EPA-HQ-OPA-2006-0090

Sectors Affected: 325 Chemical Manufacturing; 424 Merchant Wholesalers, Nondurable Goods; 211 Oil and Gas Extraction; 541 Professional, Scientific, and Technical Services; 562 Waste Management and Remediation Services

URL For More Information:

<http://www.epa.gov/ceem/>

URL For Public Comments:

<http://www.regulations.gov/#/docketDetail;D=EPA-HQ-OPA-2006-0090>

Agency Contact: Vanessa Principe, Environmental Protection Agency, Office of Land and Emergency Management, 5104A, 1200 Pennsylvania Avenue NW., Washington, DC 20460

Phone: 202 564-7913

Email: [principe.vanessa@epa.gov](mailto:principe.vanessa@epa.gov)

Gregory Wilson, Environmental Protection Agency, Office of Land and Emergency Management, 5104A, Washington, DC 20460

Phone: 202 564-7989

Email: [wilson.gregory@epa.gov](mailto:wilson.gregory@epa.gov)

RIN: 2050-AE87

## 169. MANAGEMENT OF CEMENT KILN DUST (CKD)

**Priority:** Other Significant

**EO 13771 Designation:**

**Legal Authority:** 42 U.S.C. 6912(a) RCRA 2002(a); 42 U.S.C. 6921(a) RCRA 3001(a)

**CFR Citation:** 40 CFR 256; 40 CFR 259; 40 CFR 261; 40 CFR 264

**Legal Deadline:** None

**Abstract:** In December 1993, EPA submitted a Report to Congress with its findings on the nature and management practices associated with cement kiln dust (CKD). In 1995, EPA determined that control of CKD under Subtitle C of Resource Conservation and Recovery Act (RCRA) was warranted and published a regulatory determination (60 FR 7366). On August 20, 1999, EPA issued a proposed rule (64 FR 45632) outlining the Agency's preferred regulatory approach (i.e., an exemption from hazardous waste listing for properly managed CKD) and several optional approaches including requirements solely under RCRA Subtitle D. On July 25, 2002, the Agency published a notice (67 FR 48648) to announce the availability for public inspection and comment of recently acquired data on CKD. The Agency continues to consider the comments received on the proposal and notice, and will issue an additional notice of data availability (NODA) to update certain information; a re-proposal may also be considered.

### Timetable:

Action	Date	FR Cite
Regulatory Determination	02/07/95	60 FR 7366
NPRM	08/20/99	64 FR 45632
Notice - Extend Comment Period	10/28/99	64 FR 58022
NoDA 1	07/25/02	67 FR 48648

Notice -Extend Comment Period	11/08/02	67 FR 68130
Final RuleNODA	To Be	Determined

**Commented [A14]:** Since this rule was proposed back in 99 and the last action was in 2002, recommend that EPA issue another proposal instead of a final rule.

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Undetermined

**Additional Information:** EPA Docket information: EPA-HQ-RCRA-1999-0011

**Sectors Affected:** 32731 Cement Manufacturing

**URL For More Information:**

<http://www.epa.gov/wastes/nonhaz/industrial/special/ckd/>

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**RIN:** 2050-AE34

**155. EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW ACT: AMENDMENTS AND  
STREAMLINING RULE**

**Priority:** Other Significant

**EO 13771 Designation:** Deregulatory

**Legal Authority:** 42 U.S.C. 11022

**CFR Citation:** 40 CFR 370

**Legal Deadline:** None

**Abstract:** EPA is considering a supplemental proposal to address reporting thresholds for rock salt, sand, gravel and other chemicals that may pose minimal risk. The proposed rule was published on June 8, 1998. This supplemental rule, if finalized, would minimize burden for those facilities that are currently reporting chemicals that pose minimal risk under Sections 311 and 312 of the Emergency Planning and Community Right-To-Know Act. This rule, if finalized, may also reduce the number of facilities subject to these reporting requirements. The reporting requirements under sections 311 and 312 are intended to enhance communities' and emergency response officials' awareness of chemical hazards; to facilitate the development of State and local emergency response plans; and to aid communities and emergency response officials in preparing for and responding to emergencies safely and effectively. By proposing to provide relief from routine reporting of substances with minimal hazards and minimal risk, State and local officials can focus on chemicals that may pose more significant hazard or may present greater risks to the community.

**Timetable:**

Action	Date	FR Cite
NPRM	06/08/98	63 FR 31268
Supplemental NPRM	01/00/21	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal, Local, State, Tribal

**Additional Information:** Split from RIN 2050-AE17.

**Sectors Affected:** 23 Construction; 51 Information; 31-33 Manufacturing; 44-45 Retail Trade; 48-49  
Transportation and Warehousing; 22 Utilities; 42 Wholesale Trade

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**RIN:** 2050-AG40

**52. RECONSIDERATION OF THE PREVENTION OF SIGNIFICANT DETERIORATION AND  
NONATTAINMENT NEW SOURCE REVIEW (NSR) PROJECT AGGREGATION**

**Priority:** Substantive, Nonsignificant~~Other Significant~~

**EO 13771 Designation:** ~~Not subject to, not significant~~Deregulatory

**Legal Authority:** 42 U.S.C. 7401 et seq Clean Air Act

**CFR Citation:** 40 CFR 51.165; 40 CFR 51.166; 40 CFR 52.21

**Legal Deadline:** None

**Abstract:** Under the New Source Review (NSR) preconstruction permitting program, stationary sources undergoing modifications need to determine whether their physical or operational changes are a "major modification" based on the emissions increase that would result from the change. The term "project aggregation" refers to the grouping of multiple, related physical or operational changes at a facility into a single project, such that their emission increases or decreases would be combined for purposes of determining NSR applicability. In January 2009, the EPA issued an interpretive rule that required changes to be aggregated into a single project if they are "substantially related" and created a presumption against aggregating projects that occur 3 or more years apart. This 2009 rule is currently stayed and under reconsideration by EPA. This action will finalize the reconsideration proceeding of the rule.

**Timetable:**

Action	Date	FR Cite
NPRM	04/15/10	75 FR 19567
NPRM Comment Period Extended	05/14/10	75 FR 27191
Final Rule	05/18/10	75 FR 27643
Final Rule	05/00/18	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal, Local, State

**Additional Information:** Docket #:EPA-HQ-OAR-2003-0064

**Sectors Affected:** 325181 Alkalies and Chlorine Manufacturing; 325188 All Other Basic Inorganic Chemical Manufacturing; 325998 All Other Miscellaneous Chemical Product and Preparation Manufacturing; 336399 All Other Motor Vehicle Parts Manufacturing; 331311 Alumina Refining; 336111 Automobile Manufacturing; 325414 Biological Product (except Diagnostic) Manufacturing; 325182 Carbon Black Manufacturing; 221121 Electric Bulk Power Transmission and Control; 221122 Electric Power Distribution; 221112 Fossil Fuel Electric Power Generation; 336312 Gasoline Engine and Engine Parts Manufacturing; 336120 Heavy Duty Truck Manufacturing; 221111 Hydroelectric Power Generation; 325413 In-Vitro Diagnostic Substance Manufacturing; 325120 Industrial Gas Manufacturing; 336112 Light Truck and Utility Vehicle Manufacturing; 325411 Medicinal and Botanical Manufacturing; 336992 Military Armored Vehicle, Tank, and Tank Component Manufacturing; 336213 Motor Home Manufacturing; 336211 Motor Vehicle Body Manufacturing; 336340 Motor Vehicle Brake System Manufacturing; 336330 Motor Vehicle Steering and Suspension Components (except Spring) Manufacturing; 336350 Motor Vehicle Transmission and Power Train Parts Manufacturing; 221210 Natural Gas Distribution; 211112 Natural Gas Liquid Extraction; 322122 Newsprint Mills; 221113 Nuclear Electric Power Generation; 221119 Other Electric Power Generation; 336322 Other Motor Vehicle Electrical and Electronic Equipment Manufacturing; 322121 Paper (except Newsprint) Mills; 324110 Petroleum Refineries; 325412 Pharmaceutical Preparation Manufacturing; 486210 Pipeline Transportation of Natural Gas; 336212 Truck Trailer Manufacturing

**URL For More Information:**

<http://www.epa.gov/nsr/>

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**RIN:** 2060-AP80

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**88. REMOVAL OF TITLE V EMERGENCY AFFIRMATIVE DEFENSE PROVISIONS FROM STATE  
OPERATING PERMIT PROGRAMS AND FEDERAL OPERATING PERMIT PROGRAM**

**Priority:** Substantive, Nonsignificant

**EO 13771 Designation:** Not subject to, not significant

**Legal Authority:** 42 U.S.C. 7401 et seq

**CFR Citation:** 40 CFR 70; 40 CFR 71

**Legal Deadline:** None

**Abstract:** The EPA is withdrawing this action via the reg agenda because the agency does not plan to move forward with this rulemaking due to other pending priorities.

**Timetable:**

Action	Date	FR Cite
NPRM	06/14/16	81 FR 38645
Withdrawn	02/23/18	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Additional Information:** Docket #:EPA-HQ-OAR-2016-0186

**URL For More Information:**

<https://www.epa.gov/title-v-operating-permits/current-regulations-and-regulatory-actions>

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**RIN:** 2060-AS96

**28. REVIEW OF THE STANDARDS OF PERFORMANCE FOR GREENHOUSE GAS EMISSIONS FROM NEW, MODIFIED, AND RECONSTRUCTED STATIONARY SOURCES: ELECTRIC GENERATING UNITS**

**Priority:** Other Significant

**Unfunded Mandates:** Undetermined

**EO 13771 Designation:** Other

**Legal Authority:** 42 U.S.C. 7411 Clean Air Act

**CFR Citation:** 40 CFR 60

**Legal Deadline:** None.

**Abstract:** On April 4, 2017, the EPA announced it is reviewing the Standards of Performance for Greenhouse Gas Emissions From New, Modified, and Reconstructed Stationary Sources: Electric Generating Units, found at 40 CFR Part 60, subpart TTTT.

**Timetable:**

Action	Date	FR Cite
NPRM	06/00/18	

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** Federal, State, Tribal

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**RIN:** 2060-AT56

**87. WITHDRAWAL OF THE PRIOR DETERMINATION OR PRESUMPTION THAT COMPLIANCE WITH THE CAIR OR THE NOX SIP CALL CONSTITUTES RACT OR RACM FOR THE 1997 8-HOUR OZONE AND 1997 FINE PARTICLE NAAQS**

**Priority:** Substantive, Nonsignificant

**EO 13771 Designation:**

**Legal Authority:** 23 U.S.C. 101; 42 U.S.C. 7401 to 7671q Clean Air Act

**CFR Citation:** 40 CFR 51

**Legal Deadline:** None

**Abstract:** The EPA is withdrawing this action because it is no longer needed to clarify the policy on reasonably available control technology and reasonably available control measures for oxides of nitrogen or sulfur dioxide emissions from electric generating unit sources participating in regional cap-and-trade programs, including the Clean Air Interstate Rule (CAIR) and the NOx SIP Call. The policy was clarified in two separate final rules issued in 2015 and 2016: Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements" (80 FR 12264, March 6, 2015, at 12279) and Fine Particulate Matter National Ambient Air Quality Standards: State Implementation Plan Requirements" (81 FR 58010, August 24, 2016, at 58040).

**Timetable:**

Action	Date	FR Cite
NPRM	06/09/14	79 FR 32892
NPRM Comment Period Extended	07/15/14	79 FR 41157
Withdrawn	06/02/17	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** Federal, State

**Additional Information:** Docket #:EPA-HQ-OAR-2009-0897

**Sectors Affected:** 221112 Fossil Fuel Electric Power Generation

**URL For More Information:**

<https://www.epa.gov/ozone-pollution>

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**RIN:** 2060-AQ07

## 117. GROUNDWATER AND PESTICIDE MANAGEMENT PLAN RULE

**Priority:** Info./Admin./Other

**EO 13771 Designation:** Not subject to, not significant

**Legal Authority:** 7 U.S.C. 136(a) "FIFRA sec 3"; 7 U.S.C. 136(w)

**CFR Citation:** 40 CFR 152.170

**Legal Deadline:** None

**Abstract:** As proposed, this regulation would have established Pesticide Management Plans (PMPs) as a new regulatory requirement for certain pesticides. Unless a State or tribal authority had an EPA-approved Plan specifying risk reduction measures, use of the chemical would be prohibited. The rule would also specify procedures and deadlines for development, approval and modification of plans by States and tribal authorities. Several parameters of the program described in the proposed rule were reconsidered to determine whether the program could address water quality issues rather than ground-water only, and to determine the best partnership approach to implementation. During this period, the risk level associated with the named pesticides was reexamined and reduced. Moreover, since the proposal in 1996, many States have adopted the original concept and framework of Pesticide Management Plans and these programs are operational today. This experience and growth in knowledge has exceeded the requirements and specifications of the original proposal. EPA is now withdrawing this action. This withdrawal does not preclude EPA's pursuing a similar action in the future. If that is done, the Agency will create a new entry in the Regulatory Agenda once such a decision is made in the future.

### Timetable:

Action	Date	FR Cite
NPRM	06/26/96	61 FR 33259
Notice	02/23/00	65 FR 8925
Notice	03/24/00	65 FR 15885

Withdrawn Notice	03/14/05/00/1	
	8	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Sectors Affected:** 9241 Administration of Environmental Quality Programs

**URL For More Information:**

[www.epa.gov/pesticides](http://www.epa.gov/pesticides)

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**RIN:** 2070-AC46



#### 141. LEAD FISHING SINKERS; MANUFACTURING, PROCESSING, AND DISTRIBUTION IN COMMERCE

**Priority:** Info./Admin./Other

**EO 13771 Designation:** Not subject to, not significant

**Legal Authority:** 15 U.S.C. 2605 "TSCA 6"

**CFR Citation:** 40 CFR 745

**Legal Deadline:** None

**Abstract:** In 1991, EPA issued an advance notice of proposed rulemaking in response to a citizen's petition filed by the Environmental Defense Fund (EDF), Federation of Fly Fishers, Trumpeter Swan Society, and North American Loon Fund under section 21 of the Toxic Substances Control Act (TSCA) and the Administrative Procedure Act (APA). The petition asked EPA to initiate rulemaking proceedings under section 6 of TSCA to require that the sale of lead fishing sinkers be accompanied by an appropriate label or notice warning that such products are toxic to wildlife. In 1994, EPA proposed a rule under section 6(a) of TSCA to prohibit the manufacturing, processing, and distribution in commerce in the United States, of certain smaller size fishing sinkers containing lead and zinc, and mixed with other substances, including those made of brass. In 2011, EPA responded to another petition indicating that it would withdraw this rulemaking. Withdrawing this action does not preclude EPA from pursuing a rulemaking in the future. If that is done, the Agency will create a new entry in the Regulatory Agenda once such a decision is made in the future.

**Timetable:**

Action	Date	FR Cite
ANPRM	05/13/91	56 FR 22096
NPRM	03/09/94	59 FR 11122
<u>Withdrawn Notice</u>	<u>03/14/1805/0</u> <u>0/18</u>	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Additional Information:** <https://www.epa.gov/lead>

**Sectors Affected:** 451110 Sporting Goods Stores; 339920 Sporting and Athletic Goods Manufacturing; 423910 Sporting and Recreational Goods and Supplies Merchant Wholesalers

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**RIN:** 2070-AC21

**142. SIGNIFICANT NEW USE RULE (SNUR); REFRACTORY CERAMIC FIBERS (RCFS)**

**Priority:** Info./Admin./Other

**EO 13771 Designation:** Not subject to, not significant

**Legal Authority:** 15 U.S.C. 2604 "TSCA 5"; 15 U.S.C. 2605 "TSCA 6"

**CFR Citation:** 40 CFR 704; 40 CFR 721

**Legal Deadline:** None

**Abstract:** Under the Toxic Substances Control Act (TSCA), EPA has instituted a program to monitor the commercial development of existing chemicals of concern and/or to gather information to support risk assessments on such chemicals, including Refractory Ceramic Fibers (RCFs). RCFs are amorphous synthetic fibers that are part of a larger group called synthetic vitreous fibers (SVFs). RCFs are made by either 'spinning' or 'blowing' and are used primarily for high temperature industrial insulation purposes (e.g., furnaces, heaters, kilns) in addition to automotive applications, aerospace uses, and in certain other industrial applications. As chemicals of potential concern are identified, EPA will initiate rulemakings under TSCA when appropriate, to require reporting by the manufacturers, importers and/or processors of these chemicals. A shift in the Agency's priorities warrant the withdrawal of the RCF SNUR proposed rulemaking from the Regulatory Agenda at this time. Withdrawing this action does not preclude EPA from pursuing the same action in the future. Should the Agency opt to do so, it will create a new entry in the Regulatory Agenda for that action.

**Timetable:**

Action	Date	FR Cite
NPRM	03/21/94	59 FR 13294
Withdrawn	03/14/18	

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

**Sectors Affected:** 327999 All Other Miscellaneous Nonmetallic Mineral Product Manufacturing

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**RIN:** 2070-AC37

## 118. PESTICIDES; REGISTRATION REQUIREMENTS FOR ANTIMICROBIAL PESTICIDE PRODUCTS

**Priority:** Info./Admin./Other

**EO 13771 Designation:** Not subject to, not significant

**Legal Authority:** 7 U.S.C. 136a(h); 7 U.S.C. 136(w)

**CFR Citation:** 40 CFR 152

**Legal Deadline:** None

**Abstract:** In 1999, EPA proposed to establish procedures primarily directed at implementing provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) requiring EPA to issue regulations streamlining its management of the registration process for antimicrobial pesticides, and the main body of the proposal addressed antimicrobial procedures and policies. EPA also proposed to implement a number of general provisions of FIFRA that were not specific to antimicrobial pesticides. In 2001, EPA finalized the provisions not specific to antimicrobial pesticides. This 2001 final rule did not promulgate proposed provisions aimed at addressing antimicrobial registration procedures and policies. The implementation of Pesticide Registration Improvement Act (PRIA) addressed registration procedures and policies for all pesticides, including antimicrobial pesticides, and the Agency has determined that a final rule for the remaining provisions in the 1999 proposal is not necessary. Accordingly, EPA is now withdrawing the unfinalized proposed provisions covered by this action. This withdrawal does not preclude EPA's pursuing a similar rulemaking in the future. If that is done, the Agency will create a new entry in the Regulatory Agenda once such a decision is made in the future.

### Timetable:

Action	Date	FR Cite
NPRM	09/17/99	64 FR 50671
NPRM Comment Period Extended	11/16/99	64 FR 62145
Final Rule	12/14/01	66 FR 64759

Withdrawn Notice	03/14/05/00/1	
	8	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Sectors Affected:** 325199 All Other Basic Organic Chemical Manufacturing; 325510 Paint and Coating Manufacturing; 325320 Pesticide and Other Agricultural Chemical Manufacturing; 325611 Soap and Other Detergent Manufacturing

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**RIN:** 2070-AD14

**143. TEST RULE; MULTIPLE SUBSTANCE RULE FOR THE TESTING OF DEVELOPMENTAL AND REPRODUCTIVE TOXICITY**

**Priority:** Info./Admin./Other

**EO 13771 Designation:** Not subject to, not significant

**Legal Authority:** 15 U.S.C. 2603 "TSCA 4"; 15 U.S.C. 2625 "TSCA 26"

**CFR Citation:** 40 CFR 790 to 799; 40 CFR 704

**Legal Deadline:** None

**Abstract:** New information and a shift in the Agency's priorities warrant this rulemaking being withdrawn from the Regulatory Agenda at this time. Withdrawing this action does not preclude EPA from pursuing the same action in the future. Should the Agency opt to do so, it will create a new entry in the Regulatory Agenda for that action. On March 4, 1991, EPA issued a proposed Toxic Substances Control Act (TSCA) Section 4 Test Rule to require testing of 12 chemicals for developmental and/or reproductive effects. Since issuing that proposed rule, 11 of the subject chemical substances have been sponsored under the International Organization for Economic Co-Operation and Development (OECD) HPV Screening Information Data Set (SIDS) Program, EPA's voluntary HPV Chemical Challenge Program, and/or the International Council of Chemical Associations (ICCA).

**Timetable:**

Action	Date	FR Cite
NPRM	03/04/91	56 FR 9092
Withdrawn	03/14/18	

**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

**Sectors Affected:** 324110 Petroleum Refineries

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**RIN:** 2070-AD44



**119. PLANT INCORPORATED PROTECTANTS (PIPs); EXEMPTION FOR THOSE DERIVED THROUGH GENETIC ENGINEERING FROM SEXUALLY COMPATIBLE PLANTS**

**Priority:** Info./Admin./Other

**EO 13771 Designation:** Not subject to, not significant

**Legal Authority:** 7 U.S.C. 136 et seq; 21 U.S.C. 346(a) et seq

**CFR Citation:** 40 CFR 174

**Legal Deadline:** None

**Abstract:** In 2010, the EPA determined that the record for this action, which was originally proposed in 1994, does not address the scientific information developed since the original proposal. Consequently, the record would not provide adequate, up-to-date support for the proposed rule. In 1994, the EPA believed that the proposed exemption for plant-incorporated protectants (PIPs) derived through genetic engineering from plants sexually compatible with the recipient plant had the potential to cover a number of low-risk products. However, experience in the last decade has shown that such PIPs have not been developed in great numbers. If the EPA were to pursue such an exemption in the future, the Agency would issue a new proposed rule. The EPA is now withdrawing this action. Withdrawing this action does not preclude the EPA's pursuing the same approach in the future. The Agency will create a new entry in the Regulatory Agenda once such a decision is made in the future.

**Timetable:**

Action	Date	FR Cite
NPRM	11/23/94	59 FR 60496
Supplemental NPRM	07/22/96	61 FR 37891
Supplemental NPRM	05/16/97	62 FR 27132
Supplemental NPRM	04/23/99	64 FR 19958
Supplemental NPRM	07/19/01	66 FR 37855

Supplemental NPRM	08/20/01	66 FR 43552
Withdrawn Notice	03/14/05/00/1	
	8	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Additional Information:** <https://www.epa.gov/regulation-biotechnology-under-tsca-and-fifra/overview-plant-incorporated-protectants>

**Sectors Affected:** 611310 Colleges, Universities, and Professional Schools; 325320 Pesticide and Other Agricultural Chemical Manufacturing

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**RIN:** 2070-AD55

**120. PLANT INCORPORATED PROTECTANTS (PIPS); EXEMPTION FOR PIPS THAT ACT BY PRIMARILY AFFECTING THE PLANT**

**Priority:** Info./Admin./Other

**EO 13771 Designation:** Not subject to, not significant

**Legal Authority:** 7 U.S.C. 136 et seq; 21 U.S.C. 346a et seq

**CFR Citation:** 40 CFR 174

**Legal Deadline:** None

**Abstract:** The EPA has determined that the record for this action, which was originally proposed in 1994, does not address the scientific information developed since the original proposal. Consequently, the record would not provide adequate, up-to-date support for the proposed rule. In 1994, the EPA believed that the proposed exemption for plant-incorporated protectants (PIPs) that act by primarily affecting the plant had the potential to cover a number of low-risk products. However, experience in the last decade has shown that such PIPs have not been developed in great numbers. If the EPA were to pursue such an exemption in the future, the Agency would issue a new proposed rule. As such, the EPA is now withdrawing this action. This withdrawal does not preclude the EPA's pursuing the same approach in the future. The Agency will create a new entry in the Regulatory Agenda if such a decision is made in the future.

**Timetable:**

Action	Date	FR Cite
NPRM	11/23/94	59 FR 60496
Supplemental NPRM	07/22/96	61 FR 37891
Supplemental NPRM	05/16/97	62 FR 27132
Supplemental NPRM	04/23/99	64 FR 19958
Supplemental NPRM	07/19/01	66 FR 37855

Withdrawn Notice	03/14/05/00/1	
	8	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Additional Information:** <https://www.epa.gov/regulation-biotechnology-under-tsca-and-fifra/overview-plant-incorporated-protectants>

**Sectors Affected:** 325320 Pesticide and Other Agricultural Chemical Manufacturing

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**RIN:** 2070-AD56

#### 144. TESTING AGREEMENT FOR ARYL PHOSPHATES (ITC LIST 2)

**Priority:** Info./Admin./Other

**EO 13771 Designation:** Not subject to, not significant

**Legal Authority:** 15 U.S.C. 2603 TSCA 4

**CFR Citation:** 40 CFR 790 – 799

**Legal Deadline:** None

**Abstract:** In 1992, EPA published a proposed test rule under section 4 of the Toxics Substances and Control Act (TSCA) covering a number of aryl phosphate base stocks. In 1993, EPA announced initiation of negotiations with the Aryl Phosphates Panel of the Chemical Manufacturers Association (now the American Chemistry Council or ACC) to develop a TSCA Section 4 Enforceable Consent Agreement (ECA) for aryl phosphate base stocks as an alternative approach to testing under the proposed rule (58 FR 16669). On October 9, 1998, EPA sent letters to the Chief Executive Officers of companies, including those who were participating in the development of this ECA, to announce EPA's High Production Volume (HPV) Challenge Program. Consistent with the International Organization for Economic Co-Operation and Development (OECD) Screening Information Data Set (SIDS) Program, EPA's HPV Challenge Program encourages US chemical producers and importers to voluntarily provide existing screening level data, or, if none exist, to develop such data on US HPV chemicals. Because some overlap of testing in the HPV Challenge and the ECA initiative were identified, the industry committed to develop the screening level data for the HPV Challenge Program before continuing with further development of the ECA. In this way, results from the HPV Challenge program would feed back into consideration of needs for the ECA testing and, where possible, could avert some or all of the potential overlap testing. EPA is now withdrawing this action. This withdrawal does not preclude EPA's pursuing a test rule for this chemical in the future. If that is done, the Agency will create a new entry in the Regulatory Agenda once such a decision is made in the future.

**Timetable:**

Action	Date	FR Cite
ANPRM	12/29/83	48 FR 57452

NPRM	01/17/92	57 FR 2138
Withdrawn Notice	03/14/05/00/1	
	8	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Sectors Affected:** 324110 Petroleum Refineries

**URL For More Information:**

[www.epa.gov/chemicals-under-tsca](http://www.epa.gov/chemicals-under-tsca)

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**RIN:** 2070-AJ07

#### 145. CERTAIN POLYBROMINATED DIPHENYLEETHERS; SIGNIFICANT NEW USE RULE (SNUR) AND TEST

##### RULE

Priority: Info./Admin./Other

EO-13774-Designation: Not subject to, not significant

Legal Authority: 15 U.S.C. 2601 et seq. Toxic Substances Control Act

CFR Citation: 40 CFR 721; 40 CFR 790 to 799

Legal Deadline: None

**Abstract:** New information and a shift in the Agency's priorities warrant this rulemaking being withdrawn from the Regulatory Agenda at this time. Withdrawing this action does not preclude EPA from pursuing the same action in the future. Should the Agency opt to do so, it will create a new entry in the Regulatory Agenda for that action. EPA created this entry in the Regulatory Agenda because EPA was developing a final significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA), as well as a test rule under section 4 of TSCA, for certain polybrominated diphenylethers (PBDEs). Under a SNUR, persons who intend to engage in any significant new use would be required to notify EPA at least 90 days before commencing that new use. The required notification would enable EPA to evaluate the significant new use of these chemical substances and, if necessary, appropriately address risks to human health or the environment by limiting or prohibiting those uses before they occur. On April 2, 2012, EPA proposed to designate processing for any use as a significant new use of tetraBDE, pentaBDE, hexaBDE, heptaBDE, octaBDE, and nonaBDE. EPA also proposed that manufacturing, importing, or processing of these 6 PBDEs for any use as part of an article be designated as a significant new use. In addition, EPA proposed to designate manufacturing, importing and processing (including as part of an article), of a seventh PBDE, decabromodiphenyl ether (decaBDE) for any use, as a significant new use. Finally, EPA proposed to require that anyone who manufactures, imports, or processes o-pentaBDE, o-octaBDE, or o-decaBDE after December 31, 2013 conduct testing to obtain and subsequently submit to EPA specific data on health effects, environmental effects, and chemical fate. Domestic manufacture of o-pentaBDE and o-octaBDE ceased in 2004 when the Great Lakes Chemical Corporation (now Chemtura Corporation) voluntarily phased out their production. In December of 2009, the two U.S. producers of decaBDE, Albemarle Corporation and Chemtura Corporation, and the largest U.S. importer, ICL Industrial Products, Inc., announced commitments to phase out

**Commented [A15]:** Request that EPA withdraw this action instead of moving it back onto the inactive list. Plus the priority of this rule was other significant and would be considered a regulatory action.

**Commented [A16R15]:** EPA: This is being moved back into pending/inactive because we are required to publish a defensible rationale for withdrawing what was proposed, and have determined that we need some more time to address issues raised. We do not believe actions that are withdrawn (e.g., not completed) are significant, regulatory, or deregulatory.

manufacture and importation of decabDE for most uses in the United States by December 31, 2012, and to end manufacture and import for all uses by the end of 2013.

**Timetable:**

Action	Date	FR Cite
NPRM	06/25/91	56 FR 29140
Second NPRM	04/02/12	77 FR 19862
NPRM Comment Period Extended	05/24/12	77 FR 30972
<del>Withdrawn/Pending</del>	<del>03/14/13</del>	

~~Regulatory Flexibility Analysis Required: No~~

~~Small Entities Affected: No~~

~~Government Levels Affected: None~~

~~Additional Information: <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca>~~

~~Sectors Affected: 325520 Adhesive Manufacturing; 325108 All Other Basic Inorganic Chemical Manufacturing; 325199 All Other Basic Organic Chemical Manufacturing; 325998 All Other Miscellaneous Chemical Product and Preparation Manufacturing; 335998 All Other Miscellaneous Electrical Equipment and Component Manufacturing; 339999 All Other Miscellaneous Manufacturing; 314999 All Other Miscellaneous Textile Product Mills; 326199 All Other Plastics Product Manufacturing; 326299 All Other Rubber Product Manufacturing; 334310 Audio and Video Equipment Manufacturing; 336111 Automobile Manufacturing; 337920 Blind and Shade Manufacturing; 313210 Broadwoven Fabric Mills; 322221 Coated and Laminated Packaging Paper Manufacturing; 322222 Coated and Laminated Paper Manufacturing; 334112 Computer Storage Device Manufacturing; 334113 Computer Terminal Manufacturing; 331421 Copper Rolling, Drawing, and Extruding; 331422 Copper Wire (except Mechanical) Drawing; 335931 Current-Carrying Wiring Device Manufacturing; 314121 Curtain and Drapery Mills; 325991 Custom Compounding of Purchased Resins; 335211 Electric Housewares and Household Fan Manufacturing; 334111 Electronic Computer Manufacturing; 313320 Fabric Coating Mills; 562211 Hazardous Waste Treatment and Disposal; 336120 Heavy Duty Truck Manufacturing; 335221 Household Cooking Appliance Manufacturing;~~



335224 Household Laundry Equipment Manufacturing; 335222 Household Refrigerator and Home Freezer Manufacturing; 335242 Household Vacuum Cleaner Manufacturing; 326130 Laminated Plastics Plate, Sheet (except Packaging), and Shape Manufacturing; 336112 Light Truck and Utility Vehicle Manufacturing; 337040 Mattress Manufacturing; 327993 Mineral Wool Manufacturing; 313230 Nonwoven Fabric Mills; 337214 Office Furniture (except Wood) Manufacturing; 331319 Other Aluminum Rolling and Drawing; 335929 Other Communication and Energy Wire Manufacturing; 334119 Other Computer Peripheral Equipment Manufacturing; 335228 Other Major Household Appliance Manufacturing; 322121 Paper (except Newsprint) Mills; 325211 Plastics Material and Resin Manufacturing; 334220 Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing; 326220 Rubber and Plastics Hoses and Belting Manufacturing; 325212 Synthetic Rubber Manufacturing; 313312 Textile and Fabric Finishing (except Broadwoven Fabric) Mills; 337121 Upholstered Household Furniture Manufacturing; 326150 Urethane and Other Foam Product (except Polystyrene) Manufacturing

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**RIN: 2070-AJ08**

#### 146. SIGNIFICANT NEW USE RULE FOR CHLORANIL

**Priority:** Info./Admin./Other

**EO 13771 Designation:** Not subject to, not significant

**Legal Authority:** 15 U.S.C. 2604(a) Toxic Substances Control Act

**CFR Citation:** 40 CFR 721

**Legal Deadline:** None

**Abstract:** EPA proposed a Significant New Use Rule (SNUR) for Chloranil under the Toxic Substances Control Act (TSCA) in 1993, following a Dioxin/Furan (D/F) test rule and a formal agreement with Chloranil importers (there was no domestic production of "high dioxin" Chloranil) to only import Chloranil made through the "low dioxin" process. Under the provisions of the proposed SNUR, any Chloranil imported or domestically produced with dioxin contamination levels greater than 20 ppb TEQ would be considered a new use and require reporting under TSCA section 5(a)(1)(A). EPA explained in the proposed SNUR that it would not promulgate a final SNUR until all D/F test rule data was received. EPA accepted the final test rule data in June of 2001. The test rule requirements continue to apply to any new manufacturer or importer of Chloranil. No new importer or manufacturer has identified themselves, although EPA has received inquiries from time to time about the applicability of the test rule to new imports. EPA therefore believes that all importation of Chloranil is still covered under the formal agreements and that there is no current import or domestic manufacture of high dioxin Chloranil. Because a significant time has passed since EPA proposed the SNUR, the Agency reopened the comment period in 2007. A shift in the Agency's priorities warrant the withdrawal of this rulemaking from the Regulatory Agenda at this time. Withdrawing this action does not preclude EPA from pursuing the same action in the future. Should the Agency opt to do so, it will create a new entry in the Regulatory Agenda for that action.

**Timetable:**

Action	Date	FR Cite
NPRM	05/12/93	58 FR 27986
Second NPRM	01/30/07	72 FR 4224

Withdrawn	03/14/18	
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**Regulatory Flexibility Analysis Required:** No

**Government Levels Affected:** None

**Additional Information:** Docket # EPA-HQ-OPPT-2006-0795

**Sectors Affected:** 324110 Petroleum Refineries

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**RIN:** 2070-AJ31

#### **147. HIGH PRODUCTION VOLUME (HPV) CHEMICALS; 4TH GROUP OF CHEMICALS**

**Priority:** Info./Admin./Other

**EO 13771 Designation:** Not subject to, not significant

**Legal Authority:** 15 U.S.C. 2601 et seq. Toxic Substances Control Act

**CFR Citation:** 40 CFR 721; 40 CFR 790 to 799

**Legal Deadline:** None

**Abstract:** New information and a shift in the Agency's priorities warrant this rulemaking being withdrawn from the Regulatory Agenda at this time. Withdrawing this action does not preclude EPA from pursuing the same action in the future. Should the Agency opt to do so, it will create a new entry in the Regulatory Agenda for that action. EPA created this entry in the Regulatory Agenda because EPA was developing a series of rules for HPV chemicals, with this rulemaking addressing what EPA refers to as the fourth group of chemicals identified under the HPV Program. High production volume (HPV) chemicals are manufactured (defined by statute to include import) in the aggregate at more than 1 million pounds on an annual basis. In 2011, EPA proposed a test rule under section 4(a)(1)(B) of the Toxic Substances Control Act (TSCA) and a significant new use rule (SNUR) under section 5(a)(2) of TSCA for the fourth group of HPV chemicals identified under the HPV Program. The test rule proposed testing and recordkeeping requirements for 23 of the chemicals in this group. The proposed SNUR would apply to the other 22 chemicals in this group, and would require persons who intend to manufacture, import, or process the chemical substances for an activity that is designated as a significant new use by this proposed rule to notify EPA at least 90 days before commencing that activity. The notice required by the SNUR would provide EPA the opportunity to evaluate intended significant new uses and associated activities before they occur and, if appropriate, to prohibit or limit those uses or activities.

**Timetable:**

Action	Date	FR Cite
NPRM	10/21/11	76 FR 65580
Withdrawn	03/14/18	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Additional Information:** Docket # EPA-HQ-OPPT-2010-0520

**Sectors Affected:** 324110 Petroleum Refineries

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**RIN:** 2070-AJ66

## 124. RESIDENTIAL DUST-LEAD HAZARD STANDARDS, AND THE DEFINITION OF LEAD-BASED PAINT

**Priority:** Other Significant

**Unfunded Mandates:** Undetermined

**EO 13771 Designation:** Regulatory

**Legal Authority:** 15 U.S.C. 2681 "TSCA 401"; 15 U.S.C. 2683 "TSCA 403"

**CFR Citation:** 40 CFR 745

**Legal Deadline:** NPRM, Judicial, May 11, 2018, NPRM issuance; ordered within 90 days of the date that the 9th Circuit's decision becomes final.

**Abstract:** EPA is reviewing existing regulatory dust-lead hazard standards for target housing and Child Occupied Facilities (COFs), and the definition of lead-based paint for non-target housing. On March 6, 1996, the EPA and the Department of Housing and Urban Development (HUD) issued a joint final regulation that, under section 401 of the Toxic Substances Control Act (TSCA), adopted the statutory definition of lead-based paint as "paint or other surface coatings that contain lead equal to or in excess of 1.0 milligram per square centimeter or 0.5 percent by weight." On January 5, 2001, the EPA issued a final regulation that, under section 403 of the TSCA, established regulatory dust-lead hazard standards of 40 µg/ft<sup>2</sup> for floors and 250 µg/ft<sup>2</sup> for interior window sills. On August 10, 2009, EPA received a petition requesting that EPA take action to lower EPA's regulatory dust-lead hazard standards and the definition of lead-based paint. On October 22, 2009, EPA granted the petition, agreeing to initiate a proceeding to determine whether the dust-lead hazard standards, and the definition of lead-based paint for non-target housing should be revised. On August 24, 2016, advocates filed a petition in the U.S. Court of Appeals for the Ninth Circuit, asking the court to compel EPA to make such revisions. On December 27, 2017, the Ninth Circuit granted the petition brought by environmental groups seeking to compel EPA to act upon the rulemaking petition that EPA granted in 2009 concerning the dust-lead hazard standards and the definition of lead-based paint. The decision orders EPA to issue a proposed rule within 90 days of the date that the court's decision becomes final and a final rule within one year of the proposal. Since the 2001 final rule, data collected by the National Health and Nutrition Examination Surveys and other studies, advances in blood lead modeling, and EPA's 2013 release of the Integrated Science Assessment for Lead, have made it possible to examine relationships between environmental lead exposures and blood lead concentrations in children, and to analyze

**Commented [A17]:** It is my understanding that this date maybe incorrect and have already occurred. Please verify.

**Commented [A18R17]:** The Court calculated the dates differently, and day 90 calculated their way is actually March 27, 2018.

the health effects of that relationship at lower levels. Since new data has become available regarding lead, and other agencies and EPA offices are updating their lead-related policies, EPA's review of the existing dust-lead hazard standards for target housing and COFs and the definition of lead-based paint in non-target housing should reflect this information to maintain consistency with new policies and data.

**Timetable:**

Action	Date	FR Cite
NPRM	05/00/18	
Final Rule	To Be	Determined

**Regulatory Flexibility Analysis Required:** Undetermined

**Government Levels Affected:** Federal, State, Tribal

**Additional Information:** Docket #:EPA-HQ-OPPT-2009-0665

**Sectors Affected:** 541350 Building Inspection Services; 624410 Child Day Care Services; 236 Construction of Buildings; 611110 Elementary and Secondary Schools; 541330 Engineering Services; 611519 Other Technical and Trade Schools; 531 Real Estate; 562910 Remediation Services; 238 Specialty Trade Contractors

**URL For More Information:**

<http://www2.epa.gov/lead>

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RIN: 2070-AJ82



#### 148. SIGNIFICANT NEW USE RULE FOR TOLUENE DIISOCYANATES (TDI) AND RELATED COMPOUNDS

**Priority:** Info./Admin./Other

**EO 13771 Designation:** Not subject to, not significant

**Legal Authority:** 15 U.S.C. 2604(a) Toxic Substances Control Act

**CFR Citation:** 40 CFR 721

**Legal Deadline:** None

**Abstract:** EPA proposed a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for 2,4-toluene diisocyanate, 2,6-toluene diisocyanate, toluene diisocyanate unspecified isomers (these three chemical substances are hereafter referred to as toluene diisocyanates or TDI) and related compounds. On January 15, 2015, EPA proposed to designate as a significant new use any use of TDI and related compounds in a consumer product, with a proposed exception for use of certain chemical substances in coatings, elastomers, adhesives, binders, and sealants that results in less than or equal to 0.1 percent by weight of TDI in a consumer product. In addition, EPA also proposed to make inapplicable the general SNUR exemption from notification for persons who import or process these chemical substances as part of an article. Persons subject to the SNUR would be required to notify EPA at least 90 days before commencing any manufacturing (including importing) or processing. The required notification would initiate EPA's evaluation of the intended use within the applicable review period. Manufacture and processing for the significant new use would be unable to commence until EPA has conducted a review of the notice, made an appropriate determination on the notice, and taken such actions as are required in association with that determination. A shift in the Agency's priorities warrant the withdrawal of this rulemaking from the Regulatory Agenda at this time. Withdrawing this action does not preclude EPA from pursuing the same action in the future. Should the Agency opt to do so, it will create a new entry in the Regulatory Agenda for that action.

**Timetable:**

Action	Date	FR Cite
NPRM	01/15/15	80 FR 2068

NPRM Comment Period	02/23/15	80 FR 9427
Extended		
Withdrawn	03/14/18	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Additional Information:** <https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/frank-r-lautenberg-chemical-safety-21st-century-act>

**Sectors Affected:** 326199 All Other Plastics Product Manufacturing; 325 Chemical Manufacturing; 3255 Paint, Coating, and Adhesive Manufacturing; 32411 Petroleum Refineries; 326150 Urethane and Other Foam Product (except Polystyrene) Manufacturing

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**RIN:** 2070–AJ91

## 149. HYDRAULIC FRACTURING CHEMICALS AND MIXTURES

**Priority:** Info./Admin./Other

**EO 13771 Designation:** Not subject to, not significant

**Legal Authority:** 15 U.S.C. 2601 et seq

**CFR Citation:** 40 CFR Subchapter R

**Legal Deadline:** None

**Abstract:** In response to a petition filed under section 21 of the Toxic Substances Control Act (TSCA), the EPA issued an Advanced Notice of Proposed Rulemaking which published in May of 2014 to solicit input on possible reporting. The EPA plans to develop a Notice of Proposed Rulemaking (NPRM) to obtain data on hydraulic fracturing chemical substances and mixtures. The mechanism for obtaining data could be regulatory (under TSCA section 8(a) and/or section 8(d)), voluntary, or a combination of both and could include best management practices, third-party certification and collection, and incentives for disclosure of this information. The Agency plans to consider ways to minimize reporting burdens and costs and avoid the duplication of state and other federal agency information collections, while maximizing data available for the EPA risk characterization, external transparency, and public understanding. EPA anticipates that states, tribes, industry, public interest groups, and members of the public will provide input to the EPA on reporting information needs and concerns. EPA is now withdrawing this action. This withdrawal does not preclude EPA's developing a similar action in the future. If that is done, the Agency will create a new entry in the Regulatory Agenda once such a decision is made in the future.

### Timetable:

Action	Date	FR Cite
ANPRM	05/19/14	79 FR 28664
Second ANPRM	07/14/14	79 FR 40703
Withdrawn	03/14/18	

**Regulatory Flexibility Analysis Required:** No

**Small Entities Affected:** No

**Government Levels Affected:** None

**Additional Information:** Docket # EPA-HQ-OPPT-2011-1019

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**RIN:** 2070-AJ93

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